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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,760	12/21/2000	Alireza Raissinia	CISCP667	4516

26541 7590 04/09/2004

RITTER, LANG & KAPLAN
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SARATOGA, CA 95070

EXAMINER

LEE, JOHN J

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,760

Applicant(s)

RAISSINIA ET AL.

Examiner

JOHN J LEE

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-12,21-24,27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12,21-24,27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group II, claims 9-12, 21-24, 27, and 28, in Paper No. 8 is acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 9-12, 21-24, 27, and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (US Patent number 5,371,734) in view of Nazarathy et al. (US Patent number 6,490,727).

Regarding **claims 9, 21, and 27**, Fischer discloses that in a TDMA system (Fig. 5 and abstract), a method for calibrating a gain of receiver (column 15, lines 4 – 64 and Fig. 4). Fischer teaches that a control unit (microprocessor (90) in Fig. 4) that monitors at the MAC layer control operation to determine idle period (column 34, lines 25 – 68, Fig. 11, 12, and column 39, lines 58 – column 40, lines 10, where teaches communicator determines idle state for period of time (the period of unsuccessfully receive the first information frame)). Fischer teaches that during said quiet period (column 39, lines 58 – column 40, lines 10, where teaches no transmissions are received for a predetermined period time and determines RF state relative communication power), measuring signal strength at a measurement point within said receiver (Fig. 15, 18, column 19, lines 20 –

37, and column 5, lines 34 – column 6, lines 62, where teaches to receive the RF signals during each communication cycle based on the strength of received signal). Fischer also teaches that determining receiver gain based on said measured signal strength (column 16, lines 20 – column 17, lines 2 and Fig. 5).

Fischer does not specifically disclose the limitation “a calibration control unit in calibrating a head end receiver that monitors at the head end MAC layer control operation to determine an anticipated upstream quiet period”. However, Nazarathy discloses the limitation “a calibration control unit in calibrating a head end receiver that monitors at the head end MAC layer control operation to determine an anticipated upstream quiet (delay period)” (abstract, column 2, lines 8 – 52, Fig. 1, 7, 8, and column 9, lines 35 – column 10, lines 28, where teaches monitoring/detection for not of a continuous bitstream occurring in time (upstream propagation all the way up to head end)). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Fischer system as taught by Nazarathy. Doing so would enhance the data adaptability and reliability by monitoring the reception signal in communication network.

Regarding **claims 10, 12, 22, and 24**, Fischer discloses that adjusting receiver gain to a desired level (column 35, lines 53 – column 36, lines 28 and Fig. 15, 16).

Regarding **claims 11, 23, and 28**, Fischer and Nazarathy disclose all the limitation, as discussed in claim 9. Furthermore, Fischer further discloses that upon an indication of excellent reception quality, disconnecting a selected one of at least two antennas (column 15, lines 4 – 64 and Fig. 3, 4, where teaches the antennas are oriented in different configuration, to allow selection of the one which provides the best

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reception). Fischer also teaches that while said selected one antenna is disconnected, measuring signal strength at a monitoring point in receive chain coupled to said selected one antenna (column 15, lines 4 – 64 and Fig. 3, 4).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Boch (US Patent number 6,650,628) discloses Combining QAM and QPSK to Optimize License Capacity in Cellular, Multipoint Wireless Access Systems.

Boros et al. (US Patent number 6,668,161) discloses Determining a Spatial Signature Using a Robust Calibration Signal.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is **(703) 306-5936**. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00

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pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, **Nay Aung Maung**, can be reached on (703) 308-7745. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

J.L.
March, 2001

John J Lee



NICK CORSARO
PATENT EXAMINER